THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION No.22318 of 2003

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Dated 30.01.2006

Between:

Y. Narayana Reddy S/o Rama Krishna Reddy

..... PETITIONER

AND

The Commissioner and Director of School Education, Nampally, Hyderbad, Andhra Pradesh & others.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

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WRIT PETITION No.22318 of 2003

O R D E R:

In this writ petition, proceedings of the second respondent dated 21.09.2003, are under challenge, whereby the proposals, for approval of appointment made by the Correspondent
(third respondent), was rejected on finding that the procedure prescribed in G.O.Ms.No.75, dated 23.07.2002, G.O.Ms.No.1, dated 01.01.1994, and G.O.Ms.No.8, dated 30.01.2003, had not been followed. The petitioner, a teacher in the third respondent-school, seeks a further declaration that he is entitled to be treated as having been regularly appointed in the aided post of S.G.T. in the 3rd

respondent-Institution.

The Supreme Court, in ***STATE OF ASSAM*** *v.* ***AJIT KUMAR SARMA,*** held that:

> "…….What grant the State should make to private educational institutions and upon what terms are matters for the State to decide. Conditions of these grants may be prescribed by statutory rules; there is however no law to prevent the State from prescribing conditions of such grants by mere executive instructions which have not the force of statutory rules ….."

> "….. Where such conditions of grant-in-aid are laid down by mere executive instructions, it is open to a private college to accept those instructions or not to accept them. If it decides not to accept the instructions it will naturally not get the grant-in-aid which is contingent on its accepting the conditions contained in the instructions. On the other hand, if the college accepts the conditions contained in the instructions, it receives the grant-in-aid. If however having accepted the instructions containing the conditions and terms, the college does not carry out the instructions, the Government will naturally have the right to withhold the grant-in-aid. That is however a matter between the Government and the private college concerned. Such conditions and instructions as to grant-in-aid confer no right on the teachers of the private colleges and they cannot ask that either a particular instruction or condition should be enforced or should not be enforced. It is only for the Governing Body of the College to decide whether to carry out any direction contained in mere administrative instructions laying down conditions for grant-in-aid. Further it is open to the Governing Body not to carry out any such instruction which is not based on rules having statutory force, and it will then be naturally open to the State to consider what grant to make. But if the Governing Body chooses to carry out the instruction, it could hardly be said that the instruction was being carried out under any threat. It is certainly not open to a teacher to insist that the Governing Body should not carry out the instruction. The rules for the purpose of grant-in-aid being - as in this case - merely executive instructions confer no right of any kind on teachers and they cannot apply to the High Court for a mandamus asking for the enforcement or non-enforcement of the rules, even if indirectly there may be some effect on them because of the grant-in-aid being withheld in whole or in part. Such mere administrative instructions even though called rules are only a matter between the Governing Body and the State through the Director and cannot in our opinion form the basis of a petition

for writ under Art. 226 by a teacher….."

This judgment of the Apex Court in ***AJIT KUMAR SARMA*** (supra 1) was followed by a Division Bench of this Court in ***Y.SIDDA REDDY*** *v.* ***GOVERNMENT OF ANDHRA PRADESH***. The law laid down in the aforesaid judgments is that the conditions or instructions for grant-in-aid confer no right on teachers of private colleges and they are not entitled for a Mandamus seeking enforcement of the instructions, providing for grant-in-aid, even if indirectly there may be some effect on them because of the grant-in-aid being withheld in whole or in part. No relief can therefore be granted in favour of the petitioner, since the relief sought for is, in effect, for grant-in-aid to be provided to the post in which the petitioner was appointed as a secondary grade teacher in the third respondent-school.

The writ petition accordingly fails and is dismissed. No order as to costs. Needless to state that this order shall not preclude the third respondent-school from continuing the petitioner in service.

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30.01.2006

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